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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,205	09/25/2001	Yu-Cheun Jou	PA010359	2923
23696	7590	12/01/2005	EXAMINER	HSU, ALPUS
QUALCOMM, INC 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/965,205	JOU, YU-CHEUN
	Examiner	Art Unit
	Alpus H. Hsu	2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 16 September 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,4-6,9,15,16,22 and 23 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 1,4-6,15,16,22 and 23 is/are allowed.
 6) Claim(s) 9 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

Art Unit: 2665

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over YUN et al. in US2002/0039355 A1 in view of PARK et al. in U.S. Patent No. 6,747,963 B1.

Referring to claim 9, YUN et al. differs from the claims, in that, it does not disclose the features of having the starting and ceasing of transmission of data rate information on said data rate control channel in response to the request of data file delivery, which are well known in the art and commonly applied in data communications field for channel gating control purpose.

PARK et al., for example, from the similar field of endeavor, teaches the starting and ceasing of transmission of data rate information on said data rate control channel in response to the request of data file delivery (col. 14, lines 7-17, 40-50), which can be easily adopted by one of ordinary skill in the art into the method YUN et al., to further improve the system efficiency.

3. Claims 1, 4-6, 15, 16, 22 and 23 are allowed.

4. Applicant's arguments filed 16 September 2005 have been fully considered but they are not persuasive.

In the remark, regarding independent claim 9, the applicant argued that Park reference teaches that a mobile station “can stop gated transmission upon receipt of the message, sent by the base station, to stop gated transmission”, which fails to meet the claimed feature of “ceasing, in response to said concluding of delivery of said data file on said traffic channel from said mobile station to said base station, communication of data rate control information on said data

rate control channel from said mobile station to said base station". The examiner disagrees since it is irrelevant where the message to stop gated transmission is coming from. The claim only recites "ceasing, in response to said concluding of delivery of said data file on said traffic channel from said mobile station to said base station, communication of data rate control information on said data rate control channel from said mobile station to said base station". The claim never defines as to where the message indicating the concluding of delivery of the data file on the traffic channel from the mobile station to the base station is coming from. Therefore, since the Park reference teaches that a mobile station can stop gated transmission upon receipt of the message, sent by the base station, to stop gated transmission, it clearly meets the claimed limitation. Therefore, the examiner believes that the rejection under 35 U.S.C. 103(a) regarding claim 9 should be sustained.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

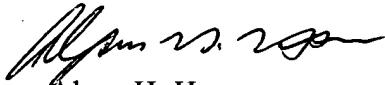
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHH



Alpus H. Hsu
Primary Examiner
Art Unit 2665